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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,021	06/25/2003	Radim Stepanik	A891763US	2587
26123	7590	10/20/2004	EXAMINER FITZGERALD, JOHN P	
BORDEN LADNER GERVAIS LLP WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA			ART UNIT 2856	PAPER NUMBER

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/603,021	Applicant(s) STEPANIK ET AL.	
	Examiner John P Fitzgerald	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>06-25-03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:
 - I. Claims 1-17, drawn to an electronic system for use on a remote gas or oil well-site, classified in class 73, subclass 31.01.
 - II. Claim 18, drawn to method of initializing a system having a central communications interface, classified in class 340, subclass 286.01.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions consist of an apparatus/system (Group I), and a method of initializing a central communications system and it's elements.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Mr. Andrew Hicks on 21 September 2004 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-17. Affirmation of this election must be made by applicant in replying to this Office action. Claim 18 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 17 is rejected under 35 U.S.C. § 112, first paragraph, as based on a disclosure which is not enabling. The “intrinsically safe housing” critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). The instant specification and/or claims completely fail to enable one of ordinary skill in the art to understand, make, or utilize an “intrinsically safe housing,” since the disclosure fails to provide any details and or specifications of exactly what constitutes an “intrinsically safe housing,” and what part of the claimed “system” utilizes this so-called “intrinsically safe housing.”

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 2, 4 and 8-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over US 6,670,887 to Dungan and US 6,405,135 to Adriany et al. Dungan discloses an electronic system (Figs. 1-19) for use on a remote gas or oil well-site to detect and identify gas present in the atmosphere and transmit to location off-site data respecting the gas so identified; the system

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having: at least one sensor means (38) to detect and generate raw data respecting at least one noxious gas (including hydrogen sulfide and sulfur dioxide and their LEL level or ppm) (Dungan: col. 9, lines 37-43, and col. 1, lines 26-29 as recited in claims 11 and 16) present in the atmosphere; means to process the raw data (via analog-to-digital conversion (290) and identify each noxious gas detected (Dungan: col. 9, lines 9-11); a central/master communication interface (18) (which may be mobile) for electronically receiving the data via a receiver/transceiver (74) from the sensors, and relays for transmitting offsite (118) (see Fig. 4), wireless local means (UHF, radio signals operating at any desired frequency, licensed or unlicensed) (248) (Dungan: col. 16, lines 17-24) (as recited in claim 12) to communicate to the central communication interface data representing the noxious gases detected; and a portable source of electrical power (note: portable sources of power, such as batteries, back-up power supplies are common and well known sources of electrical power for electronic devices), as well as solar power means for charging (Dungan: col. 12, lines 35-42 & col. 15, lines 4-22) (as recited in claim 10); means for sensing atmospheric conditions that cause anomalous output for the sensor means (Dungan: col. 10, line 62 to col. 11, line 5) (as recited in claim 2) and intrinsically safe housings (Dungan: table, col. 11) (as recited in claim 17). Dungan further discloses employment of long distance wireless communication means (i.e. more powerful wireless signal means with higher gains than cellular phone antennas or UHF) via a satellite dish and low-earth-orbit (LEO) satellites and wherein when data messages are transmitted to the LEO satellite from the sensor means, it may be linked to a local gateway for validation and optimal routing to the recipient which would be the central/master communication interface (Dungan: col. 6, line 50 to col. 7, line 48).

Dungan does not expressly disclose the employment of the Internet (World Wide Web)

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for the transmission of data in conjunction with the local/long distance wireless means (as recited in claim 1); including voice communication means (as recited in claim 4) means of storing and processing the raw data for the purposes of creating a data log respecting the nature and presence or concentration of at least one noxious gas over time (as recited in claim 9) and various aspects of wireless communications means recited in claims 13-15). Adrian et al. disclose a system and method for monitoring pollutants/contaminants within the environment (Figs. 1-6) having sensors (10) to measure the presence of the pollutants/contaminants employing the Internet (23) and Web site system (22) including storage/database to record events (as recited in claim 9), the Web/Internet communication system having secure/confidential notifications offsite to responsible parties (24), an Internet domain (i.e. IP address, as recited in claim 8) name utilized by the detection service provider using standard protocols to form a global distributed network (thus including common elements recited in claims 13-15), communications means (including voice (Adrian et al.: col. 6, line 62) (as recited in claim 4); transmitting data via lines (17), satellite relay or wireless digital communication. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the Internet as a data communication means, as taught by Adrian et al., thus modifying the electronic system disclosed by Dungan, thus providing enhanced communication means in real time via the Internet.

9. Claims 3 and 5-7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over US 6,670,887 to Dungan and US 6,405,135 to Adrian et al. as applied to claim 1 above, and further in view of US 6,259,956 to Myers et al. Dungan and Adrian et al. disclose an electronic system having all of the elements stated previously. Dungan and Adrian et al. do not expressly disclose

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an electronic system further including a camera for taking video/digital images and their transmission (as recited in claim 3, means for detecting signal strength and suitable switching means for the long-distance wireless means (as recited in claims 5 and 6); and a call center at the off-site location. Myers et al. disclose an storage site monitoring system (Figs. 1-6) having Internet communication means via a Web server (40a) receiving information from various sensors (2, 28) for creating a HTML log (46) and reports (44) for transmitting data offsite via a call center (40b); including video cameras (52) taking digital images of the remote site which are converted to HTML image files and hyperlinked to related HTML text files (as recited in claim 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a camera/video system and a call center, as taught by Myers et al., thus modifying the electronic system disclosed by Dungan and Adriany et al., thus providing means to visually monitor the various sensor site locations remotely. In specific regards to claims 5 and 6, providing means to measure signal strength and switching means is considered an obvious variant well within the purview of design choice of one of ordinary skill in the art, for ordinary cell-phones have indicators of signal strength and automatic switching means to provide wireless communications.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO 892 form for Prior Art discussing various aspects of the instant invention.

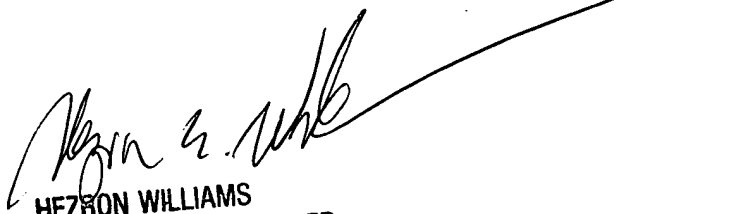
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Fitzgerald whose telephone number is (571) 272-2843. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM. If attempts to

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reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams, can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JF
10/16/2004



HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800